



U.S. Department of Energy
Energy Efficiency and Renewable Energy

federal energy management program

Breaking Down the Barriers

**Engaging Agency Legal Resources to be
Part of the Solution**

**Daniel Gore
US Coast Guard
Energy Manager**

Unit	Contract Type	Coast Guard Alternatively Financed Project Status					Estimated Contract Value (Millions)
		Under Consideration	Initial Proposal	Delayed by lack of Contracting Officer or Champion	Detailed Design Study	Recently Awarded	
TRACEN Cape May	ESPC		X				
TRACEN Petaluma	PPA	X		X			
ISC San Pedro	UESC			X	X		
CG Academy	ESPC				X		
TRACEN Cape May	UESC		X				
Air Station Borenquin	ESPC		X	X			
Sector New York (3 sites)	ESPC		X	X			
CG Yard (BAMF)	ESPC					X	
E-City	ESPC					X	
West Coast - 9 Sites	ESPC					X	



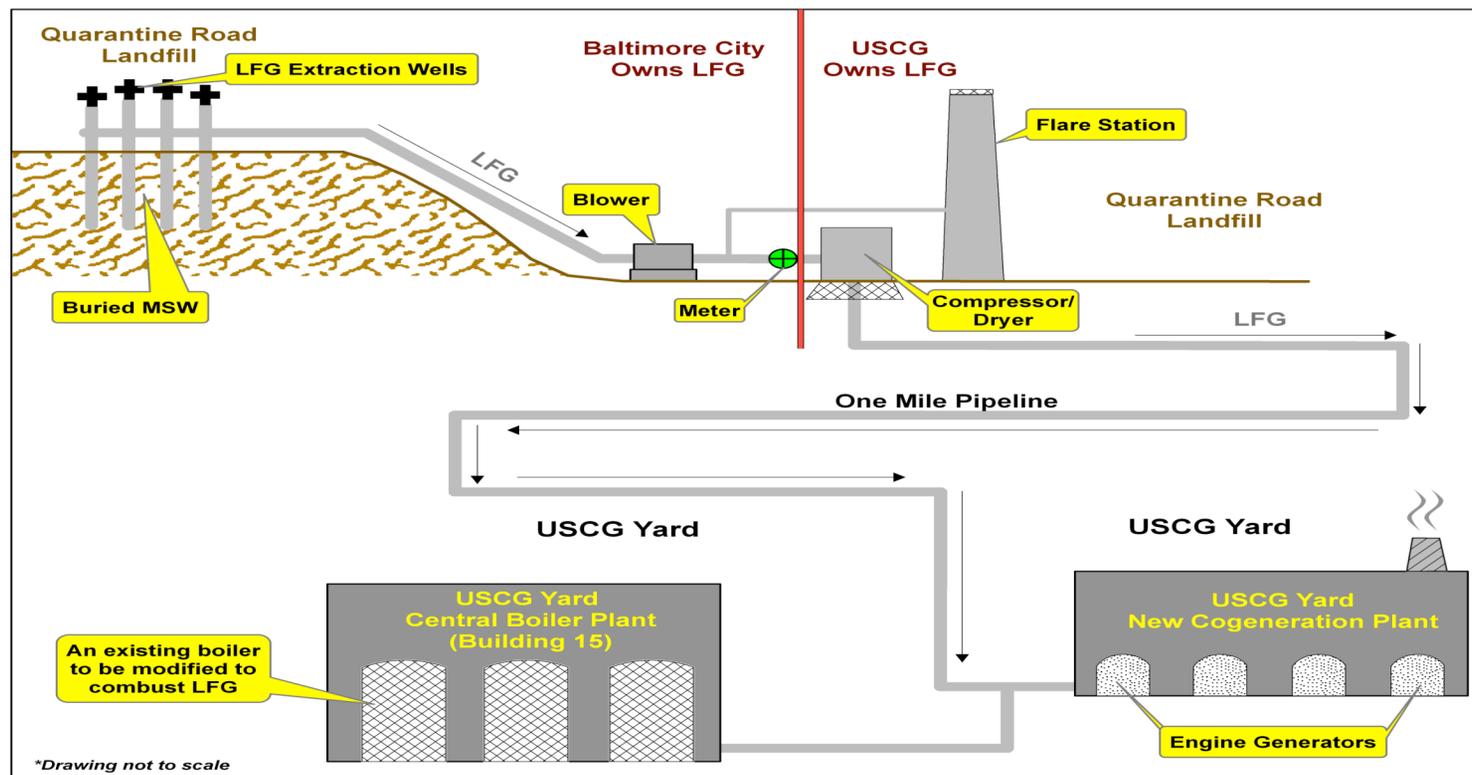
Five Essentials for Alt. Financed Project

- Site approval
- Technical Champion
- Contracting Officer
- Financial Analyst
- Legal Support



Baltimore Shipyard Landfill Gas ESPC

- FY08 signed \$41M ESPC with Ameresco
- Signed \$4M contract with City of Baltimore for 15 year gas supply
- Equivalent of 4% CG electricity load (8% for R.E. reporting)
- **Legal support – absolute necessity!**





“Don’t tell the lawyers but...”

- Often prevalent project engineer view
 - Intent to make a project happen
 - Understands other agencies have done it
 - Too much riding on project - doesn’t want to hear “no”
- Lawyers need to be part of the energy solution
 - Alternatively financed projects are complex
 - Applicable laws are often gray
 - Agency authorities are often different
 - Can find legal work arounds
 - Customize solutions integrating contracting, real property, and finance
 - Will review contract before award anyway



Breakout Discussion – Legal Working Group?

- Discuss/list (not settle) significant legal issues impacting projects
- Discuss legal influence of DOE/ GSA/ DOD/ other guidance
- Discuss potential for Energy Project Legal Working Grp
 - Engage agency attorneys in increasingly critical energy issues?
 - Forum to exchange information, lessons learned, work arounds?
 - Identify critical legal show stoppers?
 - Identify the need for clarifying legislation?
 - Forum for discussion with DOE/DOD/GSA attorneys?
 - Review propose legislation prior to enactment?
 - Body to issue guidance?
 - Open just to Feds or Feds, Utilities, and ESCOs?
 - Utility issues like uniform right of way rules for fed property
 - Other thoughts
- Or no working group – best to let each agency make own determinations?
- Or no legal working group – but some other forum?
- Other thoughts



Vision and Next Steps

- **Meet this afternoon for more detailed discussions**
- **Plan Attorney Session at GOVEnergy 2008**
 - **Establish Working Group Charter**
 - **Present/discuss top four critical issues**
 - **Develop follow-on action plan**



Starter List - Energy Project Legal Issues

- Ability to retain energy savings across fiscal years**
- Fed/Utility contracts – GSA delegation and contract length issues**
- Rebates, grants, and incentives**
 - Who, what, when, how applied?**
- Engaging Federal Utilities Energy Conservation Services (BPA, WAPA)**
 - Via Economy Act or UESC or both?**
 - Able to finance energy conservation measures?**